

REMARKS

I. Status of Claims

Claims 4, 8, 13, 17 and 20-22 are pending in the application. The Examiner is requested to acknowledge that claim 14 was canceled in the Amendment filed December 7, 2009, and is thus, not currently under consideration.

Claims 4, 8 and 20-22 were rejected, and claims 13 and 17 were withdrawn from consideration.

Claims 4 and 13 are amended to describe the physical shape of the presently claimed radical spherical crystallization product, with support in the present specification at, for example, page 5, lines 9-14.

No new matter is added, and the claim amendments place the present application in condition for allowance. Therefore, Applicants respectfully request entry and consideration of the Amendment after a final Office Action.

II. Response to Claim Rejection Under 35 U.S.C. § 102

A. Claims 4 and 8 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Hanna (U.S. Patent No. 6,063,138).

B. Claims 4 and 8 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Reverchon (Powder Technol., vol. 114, pp. 17-22).

Applicants respectfully traverse, at least for the following reasons.

Present claim 4 is drawn to a radial spherical crystallization product that has a spherical shell with thorns projecting from said spherical shell.

In comparison, even though the crystallization products of Hanna and Reverchon have thorns, they do not form a spherical shell. In Fig. 3 of Reverchon, the crystallization product has

a “star-like” configuration, and the “star-like” configuration has thorns extended from the central portion. See also Fig. 5 of Hanna. The “star-like” structure is different from that of the presently claimed radial spherical crystallization product that has a spherical shell with thorns projecting from the spherical shell. See, for example, Fig. 1 of the specification.

In view of the above, claim 4 and 8 are patentable over Hanna and Reverchon. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 102(b) rejections of claims 4 and 8.

III. Response to Claim Rejection Under 35 U.S.C. § 103

Claims 4, 8 and 20-22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hanna, and Reverchon in view of Yianneskis (U.S. Patent No. 5,975,076) and Szabo (Journal of Crystal Growth, Vols. 237- 239, Part 3, pp. 2240-2245).

Applicants respectfully traverse.

Claims 4 and 8 are patentable over Hanna and Reverchon, at least for the reasons discussed above with respect to the § 102(b) rejections, and because Yianneskis and Szabo do not cure the above discussed deficiencies in Hanna and Reverchon. Claims 20-22 are also patentable, at least by virtue of their dependence from claims 4 and 8.

Moreover, based on the difference in configuration between the presently claimed radial spherical crystallization product and the crystallization products of Hanna and Reverchon, the presently claimed invention has a higher level of release from an inhalation device, as discussed in the Rule 132 Declaration filed May 7, 2009.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the §103(a) rejection of claims 4, 8 and 20-22.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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Date: April 30, 2010